

**ASSEMBLY BILL**

**No. 218**

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**Introduced by Assembly Member Dickinson**

February 4, 2013

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An act to add Section 432.9 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as introduced, Dickinson. Employment applications: criminal history.

Existing law prohibits both public and private employers from asking an applicant for employment to disclose, either in writing or verbally, any information concerning an arrest or detention that did not result in a conviction.

This bill would prohibit a state or local agency from asking an applicant to disclose information regarding a criminal conviction, except as specified, until after the applicant's qualifications for the position have been determined to meet the requirements for the position. This bill would include specified findings and declarations of the Legislature in support of this policy.

Because this bill would impose new requirements on local agencies relative to employment application procedures, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares that reducing  
2     barriers to employment for people who have previously offended,  
3     and decreasing unemployment in communities with concentrated  
4     numbers of people who have previously offended, are matters of  
5     statewide concern. Therefore, this act shall apply to state agencies,  
6     all cities and counties, including charter cities and charter counties,  
7     and special districts. The Legislature further finds and declares  
8     that, consistent with the 2011 Realignment Legislation addressing  
9     public safety, increasing employment opportunities for people who  
10    have previously offended will reduce recidivism and improve  
11    economic stability in our communities.

12    SEC. 2. Section 432.9 is added to the Labor Code, to read:

13    432.9. (a) A state or local agency shall not ask an applicant  
14    for employment to disclose, through any written form or verbally,  
15    information concerning the criminal history of the applicant or  
16    include any inquiry about criminal history on any initial  
17    employment application. A state or local agency may inquire into  
18    or consider an applicant's criminal history after the applicant's  
19    qualifications have been screened and the agency has determined  
20    the applicant meets the minimum employment requirements, as  
21    stated in any notice issued for the position.

22    (b) This section shall not apply to a position for which a state  
23    or local agency is otherwise required by law to conduct a criminal  
24    history background check, to any position within a criminal justice  
25    agency, as that term is defined in Section 13101 of the Penal Code,  
26    or to any individual working on a temporary or permanent basis  
27    for a criminal justice agency on a contract basis or on loan from  
28    another governmental entity.

29    (c) This section shall not be construed to prevent a state or local  
30    agency from conducting a criminal history background check after  
31    complying with all of the provisions of subdivision (a).

1 (d) As used in this section, “state agency” means any state office,  
2 officer, department, division, bureau, board, commission, or  
3 agency.

4 (e) As used in this section, “local agency” means any county,  
5 city, city and county, including a charter city or county, or any  
6 special district.

7 (f) Section 433 does not apply to this section.

8 SEC. 3. If the Commission on State Mandates determines that  
9 this act contains costs mandated by the state, reimbursement to  
10 local agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code.